

SEP 05 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JESUS CONCEPCION ARAMBULA  
LARA; CRUZ OLIVIA ARAMBULA  
MARTINEZ,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

Nos. 05-75293  
06-72302

Agency Nos. A75-639-072  
A78-112-368

MEMORANDUM \*

On Petitions for Review of Orders of the  
Board of Immigration Appeals

Submitted August 26, 2008 \*\*

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Jesus Concepcion Arambula Lara and Cruz Olivia Arambula Martinez,  
married natives and citizens of Mexico, petition for review of two Board of  
Immigration Appeals (“BIA”) orders: a 2006 order denying their motion to reopen

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal proceedings based on ineffective assistance of counsel, and a 2005 order dismissing their appeal from an immigration judge's order denying cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen and review de novo due process claims. *Lin v. Ashcroft*, 377 F.3d 1014, 1023 (9th Cir. 2004). We deny the petitions for review.

The BIA did not abuse its discretion by denying the motion to reopen because petitioners have not established prejudice from their prior counsel's performance. *See id.* at 1024 (challenges based on ineffective assistance of counsel require showing of prejudice). Petitioners' motion does not include evidence describing or documenting whether their daughter has existing or future medical needs. Evidence of their daughter's past surgery and the general assertion in Arambula Martinez's affidavit that the child requires "specialized treatments" in the United States are not sufficient to establish that counsel's failure to raise the daughter's condition may have affected the outcome of proceedings. *See Ortiz v. INS*, 179 F.3d 1148, 1153 (9th Cir. 1999).

Petitioners have not raised, and have therefore waived, any direct challenge

to the BIA's 2005 order. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996).

**PETITIONS FOR REVIEW DENIED.**